

MINUTES

TENNESSEE BOARD OF DENTISTRY

- Date:** September 21 and 22, 2006
- Location:** Millennium Maxwell House Hotel
2025 Metro Center Blvd
Nashville, TN 37228
- Members Present:** Jeffrey Clark, D.D.S., Acting Board President
Harold L. Fitts, D.D.S., Secretary/Treasurer
Beth Casey, R.D.H.
Katherine Cherry, R.D.H.
John Douglas, D.D.S.
Betty Gail Fox, R.D.A.
Joe C. Greer, D.D.S.
James Smith, D.D.S.
Michael Tabor, D.D.S.
- Members Absent:** Agnes S. Young, Consumer Member
Ruth M. Bailey, D.D.S.
- Staff Present:** Robbie Bell, Director of Health Related Boards
Dea Smith, Executive Director
Sheila Bush, Board Manager
Ernie Sykes, Advisory Attorney
Lea Phelps, Disciplinary Coordinator
Denise Moran, Director of the Bureau of Investigations
Jerry Kosten, Rules Coordinator

Dr. Jeffery Clark, Acting Board President, called the meeting to order at 9:10 a.m. Dr. Clark determined that a quorum was present in order to conduct Board business.

Conflict of Interest Policy

Dr. Clark asked all Board members to read the Conflict of Interest Policy and if they have not signed the policy to please do so before the end of the meeting and give it to Ms. Dea Smith.

Minutes

Dr. Fitts made the motion to accept the minutes from the May 25 and 26, 2006 Board meeting as presented. Dr. Douglass seconded the motion. The motion carried.

Financial Report

Ms. Smith gave the financial report to the Board.

Division Directors Report

Ms. Robbie Bell, Director of Health Related Boards explained to the Board that the move has been completed for Health Related Boards and that the conference rooms should be completed and available in January 2007. The department is also updating the RBS system. Ms. Bell informed the Board that a letter has been sent to all licensed practitioners concerning the Practitioner Profile and the practitioners practice address. The Health Related Boards website will be updated to give directions to the office of the practitioners through the verification link on the web page. Ms. Bell also explained to the Board that the requirement for all new applicants to have Criminal Background Checks went into effect June 1, 2006. The Criminal Background Checks fall under the federal Voluntary Children's Act that requires all background checks to go through the Federal Bureau of Investigations as well as the Tennessee Bureau of Investigations. Cogent Systems were awarded the new contract July 2006 and they started processing the background checks August 1, 2006. Cogent Systems is also in the process of opening up more locations where practitioners can go get their fingerprints done.

Executive Directors Report

Ms. Smith introduced Ms. Sheila Bush as the new Board Manager. Ms. Smith informed the Board that all reviews for complaints in the Office of Investigation are up to date. She also explained to the Board that the original receipt is needed in order for the travel claims to be submitted and that the travel claims and per diems must be turned in within 30 days of the meeting.

Office of General Counsel

Mr. Ernie Sykes, Advisory Attorney, explained how the screening panel works and that consent order are sometimes the results of the screening panel. Mr. Sykes also informed the Board that there are 62 open cases in the Office of General Counsel.

Office of Investigation

Mrs. Denise Moran, Director of the Office of Investigations, introduced Linda Nash, RN as the newest investigator and congratulated Lea Phelps, Disciplinary Coordinator, who received an award from the United States Department of Health Human services for the reporting of disciplinary actions taken by the different Boards. Mrs. Moran explained to the Board that Dr. Robbins conducted a training session for the investigators which included OSHA and other clinical training. Mrs. Moran also has a request in the Attorney Generals Office concerning the collection of civil penalties and case costs.

Disciplinary Report

Ms. Phelps gave the disciplinary report and explained to the Board about the cases that she is currently monitoring but cannot tell the Board if those individuals are in compliance with their Board Orders.

Rules

Mr. Jerry Kosten, Rules Coordinator, presented rules pertaining to adding language regarding dentists who prescribe in hospital settings, adding the Board's address to the definition of the Board's Administrative Office, language regarding stays and reconsiderations of disciplinary orders, adding a continuing education requirement of a prescribing course and/or along with controlled substances for dentists and delete the language from the dental profession corporations and dental professional limited liability companies rules to receive authorization for a rulemaking hearing. The Board decided to add the requirements of the prescribing course to the chemical dependency requirement making the required two hours in the continuing education cycle a course in prescribing and/or chemical dependency. After discussion, Dr. Douglass made a motion to authorize a rulemaking hearing as amended. Dr. Fitts seconded the motion. The motion carried. Mr. Kosten also explained Executive Order 38 signed by Governor Phil Bredsen to consider what impact, if any, the rules would effect the economics of small businesses.

Mr. Kosten presented to the Board a request to consider awarding continuing education credits for those who write articles, who are presenters of an continuing education course and the preparation of the materials needed to write articles or to present the continuing education course. After discussion, Ms. Casey made a motion to form a committee to study or develop a rule to give continuing education credits for writing articles, presenters of an continuing education course and the preparation of the materials needed to write the articles or to teach the continuing education course. Ms. Fox seconded the motion. The motion carried with Dr. Douglass and Dr. Tabor voting in the negative. The committee will consist of Dr. Thompson, TDA, Dr. Douglass, Dr. Tabor, Ms. Casey and Victoria Richards, TDHA. The committee meeting will be held on November 3, 2006 at 1:00 p.m. The committee will present there findings at the next scheduled meeting to be held on January 11 and 12, 2007.

Concern Dental Professional Committee (CDPC)

Dr. McElhiney, Director for the CDPC, informed the Board that they are working with and monitoring 68 clients. Dr. McElhiney also informed the Board that the CDPC has hired Evelyn Evans, R.D.H. as a liaison for the Dental Hygienists.

Correspondence

The Board reviewed the correspondence in the board books. Ms. Smith presented to the Board information concerning the 52nd Annual Southern Conference of Dental Deans and Examiners to be held January 26 thru January 28, 2007 at Lake Oconee, GA. Dr. Fitts, Ms. Casey and Ms. Smith have been approved to attend.

Ms. Smith also presented an email request information regarding prescribing tobacco cessation drugs and if they are within the scope of practice of a dentist. The Board determined that the prescribing of tobacco cessation drugs is within the Board's scope of practice for dentists and that no further action was needed.

Controlled Substance Database Advisory Committee

Ms. Bell informed the Board that the committee was formed by the Department of Health and the Board of Pharmacy. Dr. Douglass represents the Board of Dentist on the committee. Ms. Bell and Dr. Douglass reported to the Board on the topics covered in the committee meeting held on September 19th.

Academy of General Dentistry

Ms. Smith informed the Board that the letter from the Academy of General Dentistry is requesting that the Board accept a transcript which shows the continuing education credits received by participants of the courses. Ms. Casey made a motion to have a policy statement written to state that the Board of Dentistry will accept transcripts as proof of continuing education credits from organizations listed under Board Rule 0460-1-.05 (3)(d)(1). Ms. Fox seconded the motion. The motion carried.

General Discussion

Ms. Smith presented the correspondence from North East Regional Board of Dental Examiners, Inc. (NERB) regarding the Board's decision to no longer accept the NERB examination for licensure in Tennessee. After discussion, the Board decided not to take any action nor request for Dr. Rossa appear before the Board.

Ms. Smith presented to the Board the packet concerning Botox and Similar Products. After review of the packet, Ms. Casey made a motion that the Board drafts a position statement that states that this is a scope of practice issue and that it would require a statute change to allow dentists to use Botox and similar cosmetic products. Dr. Douglass seconded the motion. The motion carried.

Clinical Issue Committee

Dr. Greer requested that the definition of oral examination be changed to match the definition given by the American Dental Association (ADA). After discussion, no action was taken by the board since this would require a statute change instead of a rule change.

Practice Management Issues Committee

Dr. Greer made a motion to form a committee to discuss concerns about practice management with dentists. Dr. Douglass seconded the motion. The motion carried. Dr. Douglass then made a motion that a mission statement be developed for the committee and the names of committee members be presented to the Board at the next scheduled Board meeting to be held on January

11 and 12, 2007. Ms. Fox seconded the motion. The motion carried. Dr. Greer will chair the committee.

Applicant Interview

Owais A Farooqi, DDS- Dr. Farooqi applied for licensure as a dentist by criteria with the State of Tennessee. Dr. Farooqi took the NERB examination on February 24, 2006 and passed. The Board of Dentistry removed NERB as an approved examination effective by rule on June 19, 2006. Dr. Farooqi's application applying for licensure by criteria was received in the administrative office on August 7, 2006. After discussion, Dr. Fitts made a motion to accept Dr. Farooqi's application by criteria and the NERB examination because there wasn't sufficient time for notices sent out explaining the rule change. Dr. Douglass seconded the motion. The motion carried.

Kathleen Thiele, RDH- Ms. Thiele applied for licensure by examination as a dental hygienist in the State of Tennessee. Ms. Thiele is licensed in the State of Missouri and took the CRDTS examination in 1988. Ms. Thiele has not practice as a dental hygienist since 2001 when she moved to the State of Tennessee. The Board of Dentistry no longer accepts the CRDTS examination. After discussion, Ms. Casey made a motion to accept Ms. Thiele's application for licensure as a dental hygienist. Dr. Tabor seconded the motion. The motion carried. Ms. Casey requested that the Board discuss in January changing the rule requiring full time practice to apply by criteria.

Jessie Drew, RDA- Ms. Drew applied for registration as a dental assistant in the State of Tennessee. Ms. Drew submitted a criminal background check which showed that she was convicted of domestic assault July 11, 1998. Ms. Drew also failed to indicate any convictions on the application. After discussion, Dr. Douglass made a motion to accept the application to allow Ms. Drew to take all examinations needed to become a Registered Dental Assistant in the State of Tennessee. Dr. Fitts seconded the motion. The motion carried.

Ann Slaughter Smith, DDS- Dr. Smith applied for reinstatement of her dentist license with the State of Tennessee. Dr. Smith is on five year probation with the State of Arkansas for drug dependency. Dr. Smith has advocacy with the CDPC and the Arkansas Medical Foundation. Dr. Smith will be teaching at the University of Tennessee at Memphis School of Dentistry. The Board of Dentistry issued a policy statement September 25, 2005 on applicants with out-of-state discipline or convictions. The Board reviewed the policy. After discussion, Dr. Douglass made the motion to accept Dr. Smith application for reinstatement and for her Tennessee license to be place on probation for five years to serve concurrently with the time period of the Arkansas Board Order and she must meet the same stipulation of the Arkansas Board Order. Dr. Fitts seconded the motion. The motion carried.

Order of Compliance

Ms. Phelps presented the Order of Compliance for Dr. Charles Culbertson and explained that Dr. Culbertson has met all the requirements to be in compliance with his Board Order. Dr.

Culbertson was present. After discussion, Dr. Douglass made a motion to accept the Order of Compliance. Dr. Greer seconded the motion.

Ms. Phelps presented the Order of Compliance for Dr. E. Dean Johnson and explained that Dr. Johnson has met all the requirements to be in compliance with his Board Order. Dr. Johnson's license will be placed on probation as accordance with his Board Order and Dr. Johnson does have CDPC advocacy. After discussion, Ms. Casey made a motion to accept the Order of Compliance. Dr. Tabor seconded the motion. The motion carried with Dr. Smith opposing.

Ratifications

Ms. Fox made a motion to accept the newly licensed dentists, educational licenses, limited licenses, specialty certifications, and permits for limited and comprehensive conscious sedation, and deep sedation/general anesthesia, reinstatements, reactivations, and retirements. Dr. Smith seconded the motion. The motion carried.

Dr. Douglass made a motion to accept the newly licensed dental hygienists, reinstatements, reactivations, and certifications. Ms. Casey seconded the motion. The motion carried.

Dr. Fitts made a motion to accept the newly licensed dental assistants, reinstatements, reactivations, certifications along with Melendy Kelly, RDA request for a waiver of the continuing education credits for the 2003 and 2004 calendar years. Dr. Tabor seconded the motion. The motion carried.

Continuing Education Courses

Ms. Casey made a motion to accept the following for approval of the continuing education courses; Computers & Internet in Medicine, Dentistry & Law (15 hrs),and The 2006-2007 Medical-Dental-Legal Update (17 hrs)-American Educational Institute, Inc, Series 2000 Advances in Dentofacial Orthopedics-Dynaflex (13 hrs), Identifying Drug Abuse in Dental Patients-Knox County Health Department (2 hrs), Teamwork in Dental Implant Treatment Planning-Dr. Lee Ann Hovious changing the hours from 2 hours to 5 hours and Locator Overdenture Restorations-Oral Surgery Specialists of Tennessee (2 hrs). These courses have been reviewed and approved by the consultant. Dr. Douglass seconded the motion. The motion carried.

Approval of Continuing Education Courses submitted by Individuals

Ms. Casey made the motion to accept the continuing education course Bloodborne Pathogens & Emergency Procedures on July 6, 9 or 20, 2006 given by the Knox County Health Department for 2 hrs and OSHA Training Session on August 15, 2006 given by the Metro Public Health Department for 1 hr. These courses have been reviewed and approved the consultant. Dr. Douglass seconded the motion. The motion carried.

Certification in Nitrous Oxide

Marina Nessler, RDH submitted documentation from the Northern Arizona University School of Health Professions showing that she has successfully completed a course in pain control including block and infiltration and nitrous oxide and oxygen sedation in the Spring of 1992. Ms. Casey made the motion to approve the course. Dr. Douglass seconded the motion. The motion carried.

Board Meeting Dates

The Board has decided on the following dates to have Board meetings in the 2007 calendar year; January 11 and 12, 2007; May 24 and 25, 2007; and September 13 and 14, 2007. The dates for the coronal polishing will be January 13, 2007 and September 15, 2007. A tentative date of January 10 and 11, 2008 has been set for the Board of Dentistry with the coronal polishing set for January 12, 2008.

SEPTEMBER 22, 2006

Agreed Orders

Sharon Murrell-Winter Miller, RDA- Ms. Murrell-Winter Miller is charged with unprofessional conduct, or unethical conduct; violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the Board issued pursuant thereto, or and criminal statute of the State of Tennessee; making false or misleading statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or in being guilty of fraud or deceit in the practice of dentistry or dental hygiene or as a registered dental assistant; unauthorized practice of dentistry by a dental assistant. Ms. Murrell-Winter Miller's license has been placed on probation for 2 years and within 30 days of this order, she must gain advocacy from the Concerned Dental Professionals Committee (CDPC). Ms. Murrell-Winter Miller must also take an approved course on professional ethics within 6 months of the order and must notify the disciplinary coordinator within 30 days after completion of the course. Ms. Murrell-Winter Miller must pay all case cost. Ms. Casey made a motion to accept the Agreed Order as presented. Dr. Fitts seconded the motion. The motion carried.

William Smartt IV, DDS- Dr. Smartt is charged with permitting unregistered person to perform the services of a registered dental assistant. Dr. Smartt must pay \$3000.00 in civil penalties and has been assessed case cost. Dr. Fitts made a motion to accept the Agreed Order as presented. Dr. Smith seconded the motion. The motion carried with Dr. Douglass voting in the negative.

Contested Case

Don Walling- Mr. Walling was not present but was represented by Joseph Caldran, via phone. Ms. Lexie Whittemore represented the State. The Honorable Madeline Williams, Administrative Law Judge presided. The Notice of Charges was handed out to the Board. Ms. Whittemore asked the Board to delete fact #15 from the Notice of Charges. Mr. Walling is charged with violating T.C.A. 63-5-107 (a) and 63-5-109. Neither Ms. Whittemore nor Mr. Caldran gave an opening statement. Sandra Bible, Investigator was the witness for the State. Ms. Whittemore gave a closing statement. Mr. Caldran gave a closing statement just to inform the Board of Mr. Walling's financial situation and asked the Board for some consideration when assessing cost. The Board found Mr. Walling guilty of numbers 10, 11, 13, 14, 16 and 17 in the findings of facts. Mr. Walling must pay \$2000.00 civil penalties and has been assessed case cost. The Board also requested that Ms. Whittemore issue to Mr. Walling a cease and desist letter with a stipulation that if Mr. Walling violates the order to cease and desist from construction of dentures without an order from a licensed dentist, a criminal referral will be made to the local District Attorney. A roll call vote was taken to accept the findings of facts except #12 and #15, the causes and penalties.

Deliah Taylor- Ms. Taylor contested case has been continued until the next meeting scheduled for January 11 and 12, 2007.

Consent Orders

Jeff Meadows, DDS- Dr. Meadows is charged with violating his Board Order to have advocacy with CDPC and unprofessional, dishonorable or unethical conduct. Dr. Meadows' license has been placed on immediate indefinite suspension. Dr. Meadows must complete the comprehensive inpatient program to which he is currently participating and regain and maintain advocacy without interruption with the CDPC. Dr. Meadows will also be assessed case cost. Ms. Casey made a motion to accept the Consent Order as presented. Dr. Tabor seconded the motion. The motion carried.

Delores Williams, RDA- Ms. Williams is charged with violating her Letter of Reprimand and unprofessional, dishonorable or unethical conduct. Ms. Williams has surrendered her license effective immediately and will be assessed all case cost in this matter. Dr. Douglass made a motion to accept the Consent Order as presented. Dr. Fitts seconded the motion. The motion carried.

Michael Brucker, DDS- Dr. Brucker is charged with unprofessional, dishonorable or unethical conduct; violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the Board issued pursuant thereto, or any criminal statute of the State of Tennessee; making false or misleading statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or in being guilty of fraud or deceit in the practice of dentistry or dental hygiene or as a registered dental assistant; practicing on an expired license. Dr. Brucker's license has been surrendered and he shall immediately cease and desist from the practice of dentistry. Dr. Brucker must pay \$31,000.00 in civil penalties and has been assessed case cost. Dr. Fitts made a motion to accept the Consent Order as presented. Ms. Casey seconded the motion. The motion carried.

Hobart Ford, Jr, DDS- Dr. Ford is charged with unprofessional, dishonorable or unethical conduct; violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the Board issued pursuant thereto, or any criminal statute of the State of Tennessee; gross malpractice, or a pattern or continued or repeated malpractice, ignorance, negligence or incompetence in the course of professional practice; dispensing, prescribing or otherwise distributing any controlled substance or any drug not in the course of professional practice, or not in good faith to relieve pain and suffering or not to cure an ailment, physical infirmity of disease; engaging in the practice of dentistry, dental hygiene, or as a registered dental assistant when mentally or physically unable to safely do so; conducting the practice of dentistry so as to permit directly or indirectly an unlicensed person to perform services or work that under the provisions of this chapter can be done legally only by persons licensed to practice dentistry or dental hygiene or as a registered dental assistant; practicing medicine without a license; prescribing violations. Dr. Ford license has been suspended indefinitely and he must immediately surrender his DEA license. Dr. Ford must complete the Vanderbilt Comprehensive Assessment Program for Professionals (V-CAP) within 30 days of this Consent Order; gain and maintain advocacy from CDPC; attend and complete within 12 months of this Consent Order the three day seminar entitled: “Prescribing Controlled Drugs, Critical Issues and Common Pitfalls”. Dr. Ford has been assessed \$20,000.00 that must be paid within 12 months of the effective date of this Consent Order and case cost. Ms. Fox made a motion to accept the Consent Order as presented. Ms. Casey seconded the motion. The motion carried.

Donald C Goldstein, DDS- Dr. Goldstein is charged with unprofessional, dishonorable and unethical conduct; violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the Board issued pursuant thereto, or any criminal statute of the State of Tennessee; conducting the practice of dentistry so as to permit directly or indirectly an unlicensed person to perform services or work that under the provisions of this chapter can be done legally only by persons licensed to practice dentistry or dental hygiene or as a registered dental assistant; permitting unlicensed practice. Dr. Goldstein licensed has been placed on probation for five years, he must pay \$13,000.00 in civil penalties and case cost. Dr. Fitts made a motion to accept the Consent Order as presented. Dr. Casey seconded the motion. The motion carried.

James W Gamble, DMD- Dr. Gamble is charged with unprofessional, dishonorable and unethical conduct; violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the Board issued pursuant thereto, or any criminal statute of the State of Tennessee; gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of professional practice. Dr. Gamble license has been reprimanded and he must attend and complete within 12 months of this Consent Order the course entitled: “Intensive Course in Medical Record Keeping” in addition to the continuing education required each year to maintain his license to practice Dentistry. Dr. Gamble must pay \$1,500.00 in civil penalties and has been assessed cost. Ms. Casey made the motion to accept the Consent Order as presented. Ms. Fox seconded the motion. The motion carried with Dr. Clark having been recused.

Letters of Reprimand

Teresa M Bailey, RDA- Ms. Bailey is charged with violating T.C.A. 63-5-101 and T.C.A. 63-5-124 (a) (1); practicing on an expired license. Ms. Bailey's license has been reprimanded and she must pay \$500.00 in civil penalties and the assessment of costs within 6 months. Ms. Casey made a motion to accept the Letter of Reprimand as presented. Dr. Fitts seconded the motion. The motion carried.

Morgan B Hines, DDS- Dr. Hines is charge with violating T.C.A. 63-5-101 and T.C.A. 63-5-124 (a)(1), (2), (12) and (18) and Rule 0460-1-11 (4), (5), (60, (11), (14) and (15); failure to implement infection control procedures that are in compliance with the rules and permitted unlicensed practice. Dr. Hines license has been reprimanded and he must complete 6 hours of continuing dental education hours of compliance with the Center for Disease Control guidelines for infection control, disinfection, sterilization, and universal precautions for healthcare workers, for preventing transmission of blood borne pathogens and other contaminates. The continuing education hours shall be in addition to the continuing education hours required to maintain licensure. Dr. Hines must also pay \$1,550.00 in civil penalties plus the assessment of costs. Dr. Fitts made a motion to accept the Letter of Reprimand as presented. Dr. Douglass seconded the motion. The motion carried.

A motion was made to adjourn at 2:55 p.m.